



PC- 04-227

April 22, 2004

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Dortch:

On behalf of The America Channel, a new independent programmer with an America-focused, high quality programming line-up, this letter requests that the Commission solicit from cable operators certain key information related to program carriage in its annual inquiry into the state of competition in the video delivery markets. That information will help the Commission assess the extent to which the important policy goal of ensuring broad-based cable carriage of independent programming, which has been articulated by Congress and the Commission starting with the 1992 Cable Act, is being accomplished today.

Program carriage questions have become timely and indeed pressing again in light of recent industry events, which have brought attention to two important issues: (a) the need for better quality and more family-friendly content on television; and (b) the risks to competition in the marketplace of ideas and the diversity of news, information and entertainment available to Americans.

In Washington, DC, frustration with existing content has led to regulatory proposals such as a la carte programming, family-friendly tiers and bandwidth set-asides. The approach of the cable industry should now be to encourage more choice and access to high-quality family-friendly independent networks, rather than to limit content choices; likewise, government can monitor cable's commitment to choice and quality content, before embarking on a regulatory path.

Large cable operators have a unique opportunity to proactively demonstrate real leadership, promote competition, serve the public interest and make available quality family-friendly content that consumers want. The extent to which cable operators are willing to diversify their base of content to include high-quality, family-friendly independent networks, should be viewed as one indicator in a larger litmus test reflective of the cable operators' true commitment to competition, public interest and quality of content.

As you are aware, the Commission examines issues of programming diversity as well as the effectiveness of its program carriage rules in its annual notice of inquiry ("NOI") regarding the status of competition in the market for delivery of video programming. As I have discussed in meetings with the some of the Commissioners and staff, The America Channel, as a new, independent programmer, shares the Commission's concerns about these issues, particularly in light of our experience attempting to gain carriage by some of the cable multiple system operators ("MSOs"). To aid the Commission in its assessment of programming diversity, the success of independent programmers, and the effectiveness of the program carriage rules, we respectfully suggest that the following inquiries be added to the upcoming NOI:

- Ask cable operators to inform the Commission what are the criteria used to determine whether to provide carriage to an independent programming network;

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- Ask cable operators to inform the Commission periodically with respect to new inquiries from independent networks, and the status or dispensation thereof.

This information will allow the Commission to determine how many truly independent networks have received carriage in the past year, and to develop a "scoreboard" of the ease or difficulty with which independent programmers gain access on MSO platforms. Such a scoreboard will in turn become a crucial tool for assessing the extent of the program carriage problems for independent programmers and recognizing the individual MSOs who make progress in that regard.

Thank you again and best regards.

Sincerely,

Doron Gorshein / RMB

Doron Gorshein
President & CEO
The America Channel, LLC
120 International Parkway, Suite 220
Heathrow, Florida 32746
tel: 407-333-3031
fax: 801-838-4226
email: doron.gorshein@americachannel.us
web: www.americachannel.us

cc: Chairman Michael K. Powell (via electronic mail)
Commissioner Kathleen Q. Abernathy (via electronic mail)
Commissioner Jonathan S. Adelstein (via electronic mail)
Commissioner Michael J. Copps (via electronic mail)
Commissioner Kevin J. Martin (via electronic mail)
Mr. Steven Broecker (via electronic mail)
Ms. Catherine Bohigian (via electronic mail)
Mr. Jon Cody (via electronic mail)
Mr. W. Kenneth Ferree (via electronic mail)
Mr. Jordan Goldstein (via electronic mail)
Ms. Deborah Klein (via electronic mail)
Ms. Mary Beth Murphy (via electronic mail)
Ms. Stacy Robinson (via electronic mail)
Ms. Johanna Shelton (via electronic mail)
Mr. Bryan Tramont (via electronic mail)